

REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1, 2, 6-8, 12, 21, and 33-42 were pending in this application. This Amendment cancels claims 21, 33, 34, and 38-42, amends claims 1, 6, 8, and 35-37, and adds new claims 43-45. Accordingly, claims 1, 2, 6-8, 12, 35-37, and 43-45 will be pending upon entry of this Amendment.

In the Office Action mailed June 25, 2003, the Examiner rejected claims 1, 2, 6-8, 12, 21, and 33-42 under 35 U.S.C. §103(a) as being unpatentable over a single reference, U.S. Patent No. 6,127,928 to Issacman et al. ("Issacman"). Because Applicants have canceled claims 21, 33, 34, and 38-42, this rejection is now moot with respect to those claims. To the extent this rejection might still be applied to the new and amended claims presently pending in this application, Applicants respectfully traverse the rejections as set forth below.

Applicants' representative thanks Examiner Olszewski for the courtesies extended during the telephone interview conducted September 24, 2003. The substance of the interview is incorporated into the following remarks.

Claims 1, 2, 6, 7, 8, and 12:

As suggested by the Examiner in the interview, Applicants have amended claims 1 and 8 to clarify the selective reading of adjacent merchandise, by RFID readers whose data reading ranges overlap. Specifically, amended claims 1 and 8 recite the selective reading of RFID tags within the data reading range of an RFID reader. This ability to selectively read RFID tags

enables the present invention to distinguish between the RFID tags of merchandise placed on the same fixture, and to pinpoint the location of an RFID tag down to a specific collection of merchandise (*e.g.*, a stack of garments). Support for these amendments can be found in the specification at, for example, paragraphs [0077 - 0080].

As discussed in the interview, Issacman does not teach this selective reading of RFID tags and therefore is susceptible to detecting the RFID tag of a desired article of merchandise through more than one RFID reader (or local transceiver, as Issacman refers to it). Such a situation would occur when the local transceivers are placed closed to each other (*i.e.*, such that their data reading ranges overlap), such as on a rack filled with different stacks of merchandise. To deal with this situation, Issacman recommends separately activating local transceivers when searching for a specific tag. (Column 7, lines 56-65). By separately activating the local transceivers, however, the system of Issacman can only identify a local transceiver close to the desired merchandise, but cannot pinpoint that merchandise in a specific stack on the rack. In other words, assuming that the data reading ranges of two adjacent local transceivers overlap, the Issacman system determines location based on the first local transceiver, when in fact the second local transceiver could actually be closer to the RFID tag and therefore more indicative of the tag's exact location. Thus, because the Issacman system does not selectively read the RFID tags, the Issacman system cannot positively locate an RFID tag within a discrete collection of tags (*i.e.*, a stack).

Applicants have also amended claim 6 to recite that the system, rather than the fixture, is capable of sensing available inventory disposed on the fixture in near real time.

Thus, Applicants respectfully submit that amended claim 1 (and its dependent claims 2, 6, and 7) and amended claim 8 (and its dependent claim 12) are distinguishable over Issacman.

Claims 35-37 and 43-45:

As suggested by the Examiner in the interview, Applicants have amended claims 35-37 to include the analysis of RFID tag data and an output based on that analysis, in the specific context of fitting room traffic. Applicants respectfully submit that Issacman neither teaches nor suggests, even when combined with the knowledge of one skilled in the art, the use of RFID tagging to compile fitting room traffic data and to solve specific problems associated with the operations of a retail organization. Neither Issacman nor the knowledge possessed by one skilled in the art suggests the monitoring of fitting room traffic to compile style information on garments taken to a fitting room, for the purpose of tracking consumer interest.

Regarding amended claim 35, Issacman fails to teach or suggest determining, from style information compiled from scanned RFID tags, consumer interest in a style based on the frequency by which garments associated with the style are taken to the fitting room.

Regarding amended claim 36 and new claim 43 (which depends from amended claim 36), Issacman fails to teach or suggest the use of RFID tags to determine display locations that attract consumer interest based on the frequency by which garments are taken to a fitting room. As a specific example of this novel detailed monitoring, the method of claim 36 can identify the best locations within a store from which to sell garments.

Regarding claim 37 and new claims 44 and 45 (which depend from amended claim 37), Issacman fails to teach or suggest the comparison of RFID tagged garments that are taken to the fitting room with those that are purchased. This novel use of RFID tagging, *i.e.*, in the context of fitting room traffic, captures consumer data that has been ignored in the prior art. The method of claim 37 can identify garments that have fitting problems, *i.e.*, the garments that are initially attractive enough to consumers to be tried on but ultimately do not fit well enough to lead to a purchase. In so doing, the present invention provides retail stores with invaluable sales and marketing data.

Support for amended claims 35-37 and new claims 43-45 can be found at, for example, specification paragraphs [0028] and [0083].

Applicants therefore respectfully submit that amended claims 35-37 and new claims 43-45 are patentable over Issacman and are in condition for allowance.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone applicants' undersigned representative at the number listed below.

Serial No.: 09/944,383
Art Unit: 3627

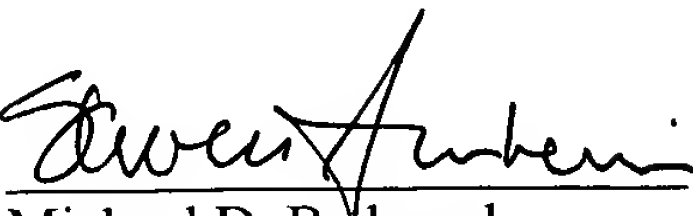
Attorney's Docket No.: GAP0001-US
Page 12

SHAW PITTMAN LLP
1650 Tysons Boulevard
McLean, VA 22102
Tel: 703/770-7900

Date: October 3, 2003

Respectfully submitted,

CAN ET AL.

By:  43475
For Michael D. Bednarek
Registration No. 32,329

MDB/SPA/kh